



STATE OF NEVADA
FINANCIAL INSTITUTIONS DIVISION
DEPARTMENT OF BUSINESS AND INDUSTRY
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Director

L. SCOTT WALSHAW
Commissioner

MEMORANDUM

DATE: January 30, 2002

TO: All Licensed Mortgage Brokers

FROM: L. Scott Walshaw, Commissioner

RE: Suggested Guidelines for Mortgage Brokers to Follow for Compliance with
Statutory Mortgage Agent Written Termination Statement Requirements of
NRS 645B.450(7)

This memo is intended to clarify the mortgage agent written termination statement requirements required by NRS 645B.450(7) by mortgage brokers and to provide suggested guidelines for mortgage brokers to follow to ensure that the NRS 645B.450(7) requirements are met. Consistent with NRS Chapter 645B, the Financial Institutions Division shall hereinafter be referred to as the "Division" in this letter.

NRS 645B.450 provides in relevant part:

7. If a mortgage agent terminates his association or employment with a mortgage broker for any reason, the mortgage broker shall, not later than the third business day following the date of termination:

(a) Deliver to the mortgage agent or send by certified mail to the last known residence address of the mortgage agent a written statement which advises him that his termination is being reported to the division; and

(b) Deliver or send by certified mail to the division:

(1) A written statement of the circumstances surrounding the termination and

(2) A copy of the written statement that the mortgage broker delivers or mails to the mortgage agent pursuant to paragraph (a).

The terms “terminates his association or employment” as used in NRS 645B.450(7) contemplates a complete severance of the employer and employee relationship or association by the employer, employee, or associated member. For example, “terminates his association or employment” would include “quitting,” “resigning,” or being “fired.” Therefore, the notice requirements of NRS 645B.450(7) must be complied with any time there is a change in association or employment of a mortgage agent with a mortgage broker. In sum, any time there is a breakdown in an employment, independent contractor association, or any other association between a mortgage broker and mortgage agent such that the mortgage agent is no longer associated, employed, or contracted with the mortgage broker, a “termination” has resulted.

Moreover, NRS 645B.450(7) further provides that within three (3) business days following the date of the mortgage agent’s termination, the mortgage broker must both:

- Deliver to the terminated mortgage agent or send by certified mail to the last known residence address of the terminated mortgage agent, a written statement that advises the mortgage agent that his or her termination is being reported to the Division.

AND

- Deliver to the Division or send by certified mail to the Division, a copy of the written statement that was delivered to the terminated mortgage agent along with a written statement of the circumstances surrounding the termination of the mortgage agent.

The term “Deliver” as used in NRS 645B.450(7)(a) and (b) requires that a mortgage broker be able to provide evidence that the required notices have been sent to the terminated mortgage agent and to the Division. Thus, pursuant to NRS 645B.450(7)(a) and (b), a mortgage broker will be considered to have “delivered” the required notices by either hand delivery, courier with receipt, facsimile with confirmation, or E-mail with confirmation. In addition, a mortgage broker will be considered to have “delivered” the required notice under NRS 645B.450(7)(a) by certified mail to the last known address of the agent or under NRS 645B.450(7)(b) by certified mail to the Division. Note, however, that standard or priority mail is specifically *not* considered “delivery” under NRS 645B.450(7)(a) or (b).

NRS 645B.450(7) does not provide that the written statement to the terminated mortgage agent advising the mortgage agent that his or her termination is being reported to the Division

must be separate from the written statement to the Division of the circumstances surrounding the termination of the mortgage agent. Accordingly, both statements may be included on one (1) written statement if the mortgage broker wishes to do so. The original of the written statement must be delivered to the terminated mortgage agent and a copy must be delivered to the Division.

Further, the mortgage broker need only provide the Division with reasonable circumstances surrounding the termination of the mortgage agent. Reasonable circumstances could be a very detailed statement regarding the "termination" or a simple statement, for example that the mortgage agent "quit."

NRS 645B.450(7) clearly requires a mortgage broker to submit the aforementioned written notices to the terminated mortgage agent and to the Division. Upon doing so, a hiring mortgage broker *must* then register the terminated mortgage agent upon employment or association. NRS 645B.450(7) does *not* contemplate any type of "transfer" of a mortgage agent between mortgage brokers. For example: mortgage broker A terminates mortgage agent X. Mortgage broker A must process NRS 645B.450(7) required written termination statements. Mortgage broker B must register mortgage agent X. Mortgage broker B cannot complete mortgage broker A's written termination statement requirements and must independently register mortgage agent X.

Questions about registering mortgage agents and/or termination of mortgage agents should be directed to the Division at the address and telephone number above. Additional information, forms, and answers to commonly asked questions may also be found on the Division's web site at: <http://fid.state.nv.us/>.

The enclosed "Suggested Written Statement for Mortgage Brokers to Follow for Compliance with Statutory Mortgage Agent Written Termination Statement Requirements of NRS 645B.450(7)" ("Written Statement") is being provided as a convenience to assist mortgage brokers in complying with statutory notice requirements of NRS 645B.450(7). While the Division hopes this Written Statement will be useful, mortgage brokers are not obligated or required to use it. Mortgage brokers may develop their own written statement that is consistent with the requirements of NRS 645B.450(7).

Thank you in advance for your prompt cooperation and adherence to the requirements of NRS 645B.450(7). Again, please contact the Division if you have any questions.